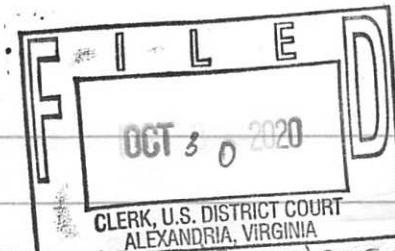


Hon. Judge Trenga



①

I am requesting compassionate release under 3582(c)(1)(a).

COVID-19 was detected in at least 1 inmate on 6/21/2020 after a cotton swab test was performed on him while a group of us were being tested for RDAP quarantine. With RDAP my release date is scheduled for July, 2021. We are all from the same building.

After we returned to our unit, a few hours later inmate Antimarche was removed from the building.

The next day 2 other inmates had high temperatures of about 102° and were removed.

On Oct. 22 a memorandum was issued by LCDR Ronell Copeland, RN that someone tested positive in SHU (special housing unit) and that another inmate shipped in from Elkhorn FCI was thought to have it but tested negative. Inmates are regularly shipped in from other institutions. You've received a letter from my dentist noting that she noticed pre-cancerous white ^{lesions} ~~spots~~ in my mouth in 2013, that I've been smoking since I've been a teenager,

and that I am at high risk for COVID-19 and it could prove fatal for

(2)

me if contracted and that I should be protected at all costs from COVID-19. This was recorded as part of my medical history. Fort Dix cannot protect me from contracting COVID-19. Several people inside of my building have probably contracted it. Since April the COVID-19 quarantine building, 5851 has been occupied by inmates without respite. As inmates we are regularly kept in the dark as to the nature of COVID at Fort Dix. Even David Ortiz, warden, admits this is not a safe environment. In his April 2 memorandum he states word for words "Social distancing is not possible in this environment." A few days later the memorandum was taken down from the inmate bulletin. I've also received a letter ~~from~~ by my doctor stating my tobacco use since I have been a teenager, and that I am at high risk for COVID-19.

My Physical Health Concerns

(3)

In 2016 a lump formed in my throat,
at the trachea section of my throat.

I believed and hoped it would go away as
I've had bronchial issues off and on since
I've been a teenager due to heavy tobacco
and marijuana use. The lump is still there and
I haven't been able to get the BOP to
look at it in spite of nearly half a dozens
requests I was seen by one doctor who
instead of addressing my issue passed me off
to my main doctor saying "I think it's better
if he address it." I had to file 2 more copouts,
one which explained the above situation and
I was seen by a nurse who took my blood
and put me on a waiting list for someone to
go over my case- she mentioned my bloodwork
from 3 months prior was rejected by the lab
because it was sent out late, and this was
the first time any one informed me of this.

I saw the nurse about 2 months ago, no
response by anyone as of yet. For almost 4-5
months I've been attempting to get a lump in
my throat looked at with no response.

My BOP, current, medical records attest to
this. I even provided them my dentist letter
from Katherine McGrath. Under normal circumstances
this would warrant an ultrasound. I doubt
there would've been any response had I not kept writing copouts

(4)

The lump in my throat is fuzzy, half the size of a dime, and at times very pronounced especially when I ~~sneak~~ howl at night while in bed. It becomes exacerbated when I smoke. My BOP medical records show that I mentioned that I smoked over 2 packs a day for the last 10+ years. I've been smoking since 17 years of age, as the dentist letter I have attached attests to. The situation at Fort Dix has stretched resources and given the current state of things if I were to contract COVID my long-term health would be put at risk. In 2013 I had a check-up done at Dr. Frisee MD, Fairfax, VA. After a body scan a heart arrhythmia was found. I believe this due to my heavy smoking at the time. Dr. Frisee shredder her records every 5 years, but the lab may still have it. In 2017 Maria Hyatt, counselor/psychologist ASAP, Herndon, VA noted I needed inpatient medical care, recommended INOVA inpatient, for my severe drinking. I have emails.

(5)

Fairfax probation records should show that I mentioned to my probation officer Kent Hodgson that I was drinking up to and over 5 bottles worth of ^{wine} ~~beer~~, in alcohol content, on a daily basis.

My excessive drinking over the years has caused liver or kidney pains, I do not know which, that have persisted over the last 3 years. I still feel them.

As I write this to you - today 8 inmates have been taken to the COVID quarantine specific building at S8S1, meaning 8 inmates tested positive.

Yesterday 4 others were removed from the building S812^a.

- 'Duke' Morales Room 218 5L was taken to the hospital by ambulance
- Derrick Walton, Room 337, 4L bed,
- Ruben Rodriguez Room 116 5L taken out, an older hispanic male that utilized a breathing apparatus
- Room 318 4U, Mr. Jones

(6)

In United States v. Ferrell (17-72-6)

his lawyer successfully argued "Mr. Ferrell is particularly at risk for infection and serious illness due to his confinement at Fort Dix. Mr. Ferrell is housed in close quarters and shares all showers, toilets, and sinks. Upon information and belief there are approximately 150 cases confirmed of Coronavirus (this motion is months old) among the FCI Fort Dix community and the ~~sick~~ institution is not observing social distancing protocols that are being followed outside the prison walls." United States v. Michael Ferrell 17-72-6. Further his argument states "In 2018 bi-partisan Congress passed the First Step Act which amends under which a sentencing court could reduce a sentence for extraordinary and compelling reasons' to a set of enumerated circumstances instead providing Federal sentencing courts extensive discretion to make a determination based on the individual circumstances before it. Of note Congress imposed no limitations on Courts authority to make such reductions and did not define what constitutes extraordinary and compelling circumstances. U.S.S.G. §1B1.13 - As the commissions language indicates extraordinary and compelling reasons for a sentence reduction may exist when the defendant is not elderly, ill, or having

(7)

difficulties (United States vs. Ferrell 17-72-6).

Mr. Ferrell completed 39 months of a 72 month sentence for conspiracy, and was released 90 days early due to an autistic stepson and because he was at particular risk for COVID

while at Fort Dix (90 days early with being an RDAP graduate).

With RDAP my release date is July, 2021, I am rescheduled to restart in 3 weeks.

(8)

On April 22, 2020 a video emerged on Instagram by an inmate at FCI Fort Dix, which shows the aftermath of an incident in which an inmate collapsed, vomiting during a temperature check. His mask, bloodstained paper towels and a smear of liquid are all that was left after he was taken away.

Jeremy Roebuck, 'As COVID-19 spreads behind bars at Fort Dix, inmates turn to contraband cellphones, social media for help'

The Philadelphia Inquirer (May 4, 2020).

<https://www.inquirer.com/news/coronavirus-fort-dix-federal-prison-new-jersey-lawsuit-actu-20200304.html>

Social Distancing is Not Possible at Fort Dix

April 2 Warden Ortiz memorandum to inmates, word for word: "Social distancing is not possible in this environment."

See Wragg, et al., No. 1:20-CV-05496, Dkt. No. 1 at 30

¶ 77: "Perversely the design of Fort Dix means the fact that those confined at Fort Dix are designated by the BOP as the least dangerous prisoners (who) face heightened risk from COVID-19. ¶ 77 Instead people confined at Fort Dix are housed close together in group quarters. Id. at 31 ¶ 79. Social distancing

(9)

as a matter of design is simply impossible Id at 31, ¶¶9.^①
~~Social distancing as a matter of design is impossible~~
~~Id at 31, ¶¶9.~~

In United States v. Midgette, GJH-8-15-CR-00281-002 (pending before the court) his lawyer lays out:
"Reports describe the conditions at Fort Dix in alarming detail.
'A 75-year-old food server visibly ill with COVID-19 continued working for days. Empty soap dispensers and no paper towels. A senior staff member spraying a collapsed prisoner with disinfectant before removing his mask, which contained blood and green vomit... FCI Fort Dix is speeding towards a public health catastrophe.'

said ACLU-NJ Legal Director Jeanne LoCicero.
United States Vs. Midgette, GJH-8-15-CR-00281-002 page 17

At Fort Dix I sleep in a 25'x21' cell (Room 331, Bldg 5812, West Compound) with 6 other men. Social distancing is not possible. As of this writing about 4 or more people have tested positive, on my floor alone, in the last 24 hours. I share 6 toilets with over 100 other men on the third floor.^② 4 toilets have been

1) ACLU NJ filed a mass habeas petition in District of New Jersey Wragg et al vs Ortiz et al No. 1:20-CV-05496,

2) The living conditions I mention here are similar to that described by another inmate see Exhibit A

(10)

out of order since my return to 5812 3 months ago.

Today I asked counselor E.Watson for a pair of surgical gloves. It is clear he had several boxes in his room and was wearing a pair. He told me "we don't do that here." Surprised I had to ask again to make sure I heard correctly and he replied "we don't do that here." Gloves are not sold in commissary. In fact we've been to commissary once in 6 weeks due to constant lockdowns. People are running out of toilet paper and hygiene items. I had to go almost 2 days without any and had to outright beg someone. The staff office hours have become erratic in 5812. In fact my counselor, counselor Thompson took time off starting on 6/28. Asking for toilet paper has been out of the question. Whenever the COVID spikes I've noticed staff taking vacations while we as inmates are stuck here - this however has not stopped Fort Dix from shipping inmates in from other institutions, so I do not believe it is ~~for~~ our safety our unit teams in multiple buildings

go on leave whenever COVID-19 hits that building. Please note we are issued 4 thin sheet rolls of toilet paper and 8 oz of liquid soap for shaving, showering etc. every 30 days. Without commissary this institution simply does not provide enough hygiene items for personal use without a pandemic being taken into account.

Fort Dix Handling of COVID-19

On 6/22, 9:29 AM, C.O. Nikola was noted breaking quarantine. He went from building 5851 (quarantine building) to 5852 RDAP, where I resided at the time, without changing his quarantine gear.

He had his gloves, visor, mask, apron, went to the 5852 ice machine reached inside and took ice back to the COVID quarantine building. I witnessed this first hand, as well as several RDAP peers did.

Inmate T-Greenlove of building 3852 wrote a complaint to the inspector general. The BOP responded by "he changed before he switched buildings".

When asked for the footage from the cameras by T. Greenlove, the BOP failed to address his concern.

These exchanges are all documented on record.

On a side note, it does not make any sense for Nikola to switch out of quarantine gear, into clean quarantine gear just to come to a building that isn't under quarantine to grab ice, where the C.O's inside the building aren't required to wear quarantine gear. This is all documented on record.

Many C.O.'s throughout the compound do not wear masks at all. For example between April & July C.O. A. Castelli did not wear a mask as he went from building to building doing counts. Several if not dozens of complaints were filed against him in the form of BP-8's and BP-9's until he started wearing it, and even then it was sporadic.

This lax attitude is reflected by the fact that the ^{COVID} quarantine building, S851 sits right on top of the laundry where laundry and sheet exchanges are done for the entire West side compound. Please refer to exhibit A to see the living conditions of an inmate that underwent quarantine. The only difference between ~~that~~ ~~and~~ what is described there and my experience, is that I'm actually afforded less protection from disease given my floors aren't separated. I live in a building with 250 other inmates. As Wragg et al. vs. Ortiz et al. states "the fundamental structure of the low and minimum security Fort Dix facility makes it a COVID-19 deathtrap."

No 1:20-CV-05496, Dkt No. 1 at 32. Please refer to exhibit B for an analysis of BOP's atrocious handling of spread of COVID-19.

(13)

in general and how it affects me. Given the current state of Fort Dix there is little to no meaningful room for rehabilitation for me being stuck in a building 24/7 terrorized by a deadly disease with virtually no meaningful contact to the outside world except for a couple of phone calls a day. Given my background and psychological history further isolation is not in the interest of my rehabilitation or health.

In United States v. Muniz 4:09-cr-199, 2020 WL 1540325 ¶ "While the court is aware of measures taken by the Federal Bureau of Prisons, news reports of the virus's spread in detention centers... demonstrate that individuals housed within our prison systems nonetheless remain particularly vulnerable to infection."

Being locked inside of a 250 man building afflicted by COVID puts my health and safety at risk with absolutely nowhere to go, wondering on a daily basis if I will be next. As I am writing this, on Saturday, 6/24, 21 total inmates have been removed from our building. In light of all of this the C.O.'s don't walk or patrol the halls like normal.

Please refer to exhibit B to get an overview of how the BOP reports COVID cases. It is so bad here that they removed the infected beds from floor 3, 2 days after the inmates were removed, and placed them in the back stairwell, near the 3rd floor door, 10' from the bathroom and showers. We have to pass the door to get to the bathroom, so we have to come in ¹ range of the beds. This is not only not safe it is barbarous.

Fort Dix and My Specific Needs

(15)

Your honor, you yourself recommended me for completion of my sentence at a medical facility in Cincinnati due to my autism. I have been placed in a facility alongside inmates with violent backgrounds, and convictions. My second week here I was assaulted by an inmate demanding my paperwork. If needed I can provide his name and a signed list of people who witnessed it. I've witnessed multiple stabbings and fights. I'm in a facility with copious amounts of liquor and "K2" or "Dwee" as it is called, and it has taken a lot of effort to become and stay sober while here. Over the last 10 months all I have had has been a single shot of liquor.

So far 3 psychologists have attested to my being autistic, one of them being Darshnell Curry, psychologist of AM RDAP. She answered another peers inquiry, in confidence and when asked, that I am in fact autistic. He informed me of this later on, mentioning he himself believed I am autistic.

~~Another psychologist also responded,~~
~~to further mentioned that I am~~
~~indeed autistic~~

(16)

While I have been here I have had no visits since March, no video messaging is available, and I am not allowed access to email or public messaging. My only way to contact the outside world is through 500 minutes of phone time every month.

I do not receive newsletters, information, emails etc. I am in the dark. For the last 8 months over 60% of my time has been spent being locked inside of a building, 24/7 with no time outside, which is about twice the size of my former residence. I live with 250+ other men.

There is almost no programming, except for RDAP, and self-reading cert courses. There is no education, compound activities, for the most part I'm not allowed outside. I complete my physical activity workouts in a dirty 15x13' room, with dirty tiles, an open air vent, a room which isn't always open. The only cardio machine is a bike they bought us at the beginning of lockdown, which hasn't been assembled properly so it gets jammed. Given COVID is now in the building, exercising has been put to the side for now.

(17)

I havent had access to the law library for 3 months. On Wednesday I asked counselor Thompson to fix my issue to work on my motion, he said he was going on vacation.

This environment is not fit for meaningful rehabilitation especially for a person with social developmental challenges, who is autistic, and has no violence in his history

Update

On 6/25 as I am writing this about 27 other inmates were removed today at around 3pm, when abruptly we were locked in to our specific floors

~~Since~~ There are reports of some people looking sick. I will describe it all in detail now.

On 6/25 following inmates taken from
3rd floor (18)

Tyrene, Williams

Anderson, Ian

Walker, Myers

Smith, Derrick

Mitchell, Cobb

Beasley, David

Alesandro Ismael ~179 (Alaska)

Stefan, Moseley - Staff told him he is asymptomatic

Francis, Blake , NY

Brian, Kelson - ~067 Pennsylvania Room 321 30 yrs old

Fawad, Syed 53 years old Room 326

2nd floor

Kevin, Garner tested 1 month ago for
surgery - negative - this week he tested positive

Palmer, Michael

You can reach out

Heard, Chris

to C.O. Costano working

Midgryte, Shawn

that day, or C.A. Rolland

to confirm all of this.

Under BOP resource page last week
107 positive cases. As of today it says
160. BOP resource page for Fort Dix.

People are both symptomatic (sweating, vomiting) and asymptomatic.

About 1.5 hours after people were taken the
back stairwell was opened for inmates
to move around. We had to walk
just inches from contaminated mattresses.

1st floor back stairwell had blankets,
pillows piled up. One pillow had a stain from
what looks like a large pool of sweat.

(19)

I've been made aware by another inmate that as of October 6 being a former smoker is considered a serious risk factor for COVID-19 by the CDC. According to the DOJ, any serious risk factors are considered extraordinary and compelling reasons for granting compassionate release under 18 USC 3582(c)(1)(A)(i)(d).

~~Compassionate Release~~

Danger To The Community

Your honor, my crime carries one of the lowest recidivism rates (refer to Mr. Citrenberg's argument at my sentencing). There were 27 months between the initial ~~raids~~ raid and date of my arrest with no further incidents. I met the agents at an agreed upon location, after they phoned me, I asked if I was under arrest, and concluded that I was. I've been diagnosed autistic by 3 psychologists, including a BOP psychologist Darshnell Curry who confided to another RDAP peer she believed I am autistic. I remember at my sentencing Mr. Citrenberg made

(20)

the argument that Judge Ellis of Eastern District of Virginia sentenced an autistic man to about 36 months in prison, whereas he had a 30 to life sentencing guideline, Judge Ellis citing autism as the underlying reason for the comparatively low sentence.

I've actively sought out prison psychological help through Dr. L. Postorino, well before COVID-19 was an issue, signaling my desire to rehabilitate myself. I've discussed my crime with her to some extent. She's taught me behavioral control exercises (the ABC's, anger control, physical exercises) to help control myself and modify my behavior. I took and completed Anger Management with L. Postorino. #

I've had no disciplinary issues, or shots while in custody.

I do not have a violent background or convictions

(21)

There was a 27 month gap where there were no more incidents of me engaging in this behavior.

Deterrence

I have hurt my family, myself, and the people that were invested in me and in this case.

I hurt my employer who trusted me, and family friends who have supported my parents through my ordeal.

The last thing I thought I was doing was hurting anyone by looking at this material. Reality sunk in when victims came forward for compensation.

I will forever carry this stain, but I am going to work to not let it define me.

While here I've become completely fluent in French and Farsi. I've dedicated about 8-10 hours a day on average (I am not kidding) studying over the last year. I have receipts dating back over a year for hundreds of dollars for CD's and textbooks from Amazon

(22)

and ebay. (Unfortunately the library has been closed since April, so I can't use the CD's I donated).

My goal is to get expert level language certifications in Farsi and French. ~~I've~~ & Coupled with my other skills I believe this will lead to employment for me. I was an E-Discovery tech at Driven Inc. for 19 months and I maintain a reference from there. I have a SQL expert cert. I was even thinking about starting to learn Arabic.

I am planning to go to Grad School, potentially for an applied economics or math degree. I am good at focusing on one thing and learning it well. I had all of these plans before this horrible experience. I was actively interviewing at Lighthouse E-Discovery, Morae Discovery for high paying jobs.

It's an uphill battle for me but I believe I've already taken

(23)

the right steps to reintegrate back into society.

If I am not mistaken, being a former smoker puts me under serious risk factors category, as of Oct 6, according to the CDC.

According to the Department of Justice any serious risk factor is considered extraordinary and compelling reason for granting compassionate release 18 USC 3582(c)(1)(a)(i)(d).

I am requesting compassionate release under 3582(c)(1).

Being released early would mean a world of difference for my future and it is not something I would take lightly or squander.

I honestly did not intend any harm to anyone, including the victims of the material I consumed.